IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 1141/2006

(Pusa Ram V/s State of Rajasthan & Anr.)

Date of Order : 11/07/2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. D.S.Udawat, for the petitioner.
Mr. Ashok Upadhyay, P.P.
Mr. Umesh Srimali for the respondent No.2.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 30.09.2005 passed by the Additional Chief Judicial Magistrate, Sojat, district Pali (for short 'the trial court' hereinafter), whereby the trial court took the cognizance of the offence under Section 420 IPC and issued the process against the petitioner.

I have heard learned counsel for the petitioner and carefully gone through the order impugned.

It is contended by learned counsel for the petitioner that a patta was issued by the Gram Panchayat in favour of the petitioner which has been signed by the Sarpanch of the Gram Panchayat. While issuing the patta whether the Gram Panchayat has followed the procedure prescribed by law or not, for this, the

petitioner cannot be blamed. Even otherwise, no role has been played by the petitioner. The offence of cheating has been defined under Section 415 of the Indian Penal Code. The instant case does not fall in any of the illustrations as envisaged under Section 415 IPC. On careful perusal of the order impugned, in my view, the very essential ingredients for the offence under Section 420 IPC are not made out. Section 420 IPC provides that whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. In the instant case, none of the ingredients of Section 420 IPC are made out. In this view of the matter, allowing the order impugned to stand would be nothing but abuse of the process of the Court.

In the result, the criminal misc. petition is allowed. The order impugned dated 30.9.2005 passed by the trial court is set aside. The proceedings against the petitioner stands quashed.

(H.R.PANWAR),J.

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